

1 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising
2 under the laws of the United States.

3 3. Defendants conduct business in the Commonwealth of Massachusetts
4 and as such, personal jurisdiction is established.

5 4. Venue is proper pursuant to 28 U.S.C. §1391(b)(2).

6
7 **PARTIES**

8 5. Plaintiff is a natural person residing in Middleboro, Massachusetts
9 02346.

10 6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C.
11 §1692a(3).

12 7. Defendant MIDLAND CREDIT MANAGEMENT, INC. (“MCM”)
13 is a debt collection company with its headquarters located at 8875 Aero Drive,
14 Suite 200, San Diego, CA 92123.

15 8. MCM collects, and attempts to collect, consumer debts incurred, or
16 alleged to have been incurred, for personal, family or household purposes on
17 behalf of creditors and debt buyers using the U.S. Mail, telephone and/or internet.

18 9. MCM is a “debt collector” as that term is defined by 15 U.S.C. §
19 1692a(6) and sought to collect a debt from Plaintiff.

20 10. Defendant MIDLAND FUNDING, LLC (“Midland”) is a debt
21 collection company with its headquarters located at 8875 Aero Drive, Suite 200,
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1 San Diego, CA 92123.

2 11. Midland is a “debt collector” as that term is defined by 15 U.S.C. §
3 1692a(6), and sought to collect a consumer debt from Plaintiff.
4

5 12. Defendants acted through their agents, employees, officers, members,
6 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
7 representatives, and insurers.
8

9 **FACTUAL ALLEGATIONS**

10 13. At all relevant times, Defendants were attempting to collect an
11 alleged consumer debt regarding a GE Money Bank account.
12

13 14. The debt arose out of transactions that were primarily for personal,
14 family, or household purposes.

15 15. Beginning in or around January 2013, and continuing through July
16 2013, MCM continuously and repeatedly contacted Plaintiff on his home
17 telephone in its attempts to collect a debt.
18

19 16. MCM called Plaintiff’s home telephone number, on average, once a
20 day, sometimes calling as frequently as three (3) times a day.

21 17. During the relevant period, MCM used the quantity and timing of its
22 collection calls as a means to harass Plaintiff.
23

24 18. On numerous occasions, when the parties spoke, Plaintiff instructed
25 MCM to stop calling him.

1 19. Despite this request, MCM continued to call Plaintiff on a repetitive
2 and continuous basis.

3 20. Upon information and belief, MCM called Plaintiff on a repetitive
4 and continuous basis with the intent of harassing him, as the content of calls did
5 not change and Defendant had been notified that the calls were unwanted.
6

7 21. Defendants took the above described actions with the intent to harass
8 and abuse Plaintiff.
9

10
11 **DEFENDANTS VIOLATED THE**
12 **FAIR DEBT COLLECTION PRACTICES ACT**

13
14 **COUNT I**

15 22. Defendants' conduct, as detailed in the preceding paragraphs,
16 violated 15 U.S.C. §§ 1692d and 1692d(5).

17 a. Section 1692d of the FDCPA prohibits a debt collector from
18 engaging in conduct the natural consequence of which is to harass,
19 oppress, or abuse any person in connection with the collection of a
20 debt.
21

22 b. Section 1692d(5) of the FDCPA prohibits debt collectors from
23 causing a telephone to ring or engaging any person in telephone
24 conversation repeatedly or continuously with the intent to annoy,
25

1 abuse, or harass any person at the called number.

2 c. Here, Defendants violated §§ 1692d and 1692d(5) of the FDCPA
3 by continuously calling Plaintiff up to three times per day, nearly
4 every day for months, with the intent to annoy, abuse and harass
5 Plaintiff. Further, Defendants violated § 1692d by continuing to
6 call Plaintiff after having been instructed by Plaintiff to stop
7 calling.
8
9

10 **COUNT II**

11 23. Defendants' conduct, as detailed in the preceding paragraphs, violated
12 15 U.S.C. § 1692f of the FDCPA.

- 13
- 14 a. A debt collector violates § 1692f of the FDCPA by using unfair or
15 unconscionable means to collect or attempt to collect any debt.
- 16 b. Here, Defendants violated § 1692f of the FDCPA by failing to
17 update its records to stop calling Plaintiff after having been
18 instructed to do so.
19

20 WHEREFORE, Plaintiff, BRETT CAREY, respectfully prays for a
21 judgment as follows:

- 22
- 23 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- 24 b. Statutory damages of \$1,000.00 for the violation of the FDCPA
25 pursuant to 15 U.S.C. § 1692k(a)(2)(A);

1 c. All reasonable attorneys' fees, witness fees, court costs and other
2 litigation costs incurred by Plaintiff pursuant to 15 U.S.C.
3 §1693k(a)(3); and
4

5 d. Any other relief deemed appropriate by this Honorable Court.

6 **DEMAND FOR JURY TRIAL**

7 PLEASE TAKE NOTICE that Plaintiff, BRETT CAREY, demands a jury
8 trial in this case.
9

10 RESPECTFULLY SUBMITTED,

11 Date: December 31, 2013

12 By: /s/ Craig Thor Kimmel
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